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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/595,781
Filing Date: April 20, 2007
Appellant(s): HAMELEERS ET AL.

Sidney L. Weatherford (45,602)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/18/2011 appealing from the Office action mailed 10/15/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US 2004/0114732 A1	Choe et al.	20040617
US 6,671,370 B1	Heinonen et al.	20031230
US2004/0120477 A1	Nguyen et al.	20040624

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. **Claims 19, 21, 23, 25, 27 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Choe** et al. (**Choe** hereafter) (US 2004/0114732 A1) in view of **Heinonen** et al. (**Heinonen** hereafter) (US 6,671,370).

Regarding claim 19, **Choe** teaches,

a method, in a telecommunications network, of providing multimedia information **(personalized ring back tone, Par. 0028 & 0035)** associated with a called party terminal **(called party)** to a calling party terminal **(calling party)**, the method, performed by a core network node **(Internet Data Center (IDC)**, comprising the steps of: **(Par. 0028)**

retrieving subscriber data of the called party **(Par. 0028 & 202-203 of Fig .2)**, wherein the subscriber data comprises a demand for presenting the multimedia information **(system determines whether the called party is a service subscriber);**

(Par. 0028)

receiving in the core network node a call set up message comprising an identification of the called **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

recognizing according to the subscriber data and the received identification of the called party the demand for providing the multimedia information **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

Although Choe teaches the internet data center 34 connected to the participating telephone service provider 30 that retrieves the ring back messages from the MCP server, when a called party 20 is the service subscriber, and delivers the personalized ring back message to a calling party 10, while the calling party 10 waits for connection to the called party 20, as a ring back tone (Par. 0026)

Choe fails to explicitly teach,

sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information.

However, **Heinonen** teaches,

sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information. **(In a cellular system, the**

search path to the data file is transmitted in the setup message, and the calling handset uses the same protocol; for example, WAP, to retrieve the data file from the network server of the telephone system, Col 4, Lines 8-18)

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of **Choe** to include the above recited limitations as taught by **Heinonen** in order to enable a caller to indicate the origin of a call by way of a ringing indication that is selected by the caller **(Heinonen; Col 4, Lines 26-34)**.

Regarding claim 21, **Choe – Heinonen** teaches,

wherein the subscriber data is related to an IN subscription of the called party **(intelligent network)**. **(Choe; Par. 0030)**

Regarding claim 23, **Choe** teaches,

a core network node (CNN) **(Internet Data Center (IDC))** in a telecommunications network for providing multimedia information **(personalized ring back tone)** associated with a called party terminal **(called party)** to a calling party terminal **(calling party)**, the core network node (CNN) comprising **(Par. 0028)**

means for **(the PRBT system accesses to the Internet Data Center, Par. 0028)** providing access to subscriber data of a called party **(Par. 0028 & 202-203 of Fig .2)**, the subscriber data comprising an indication for a demand for presenting the multimedia information **(system determines whether the called party is a service subscriber)**, **(Par. 0028)**

an interface for sending messages **(MCP)**, **(Par. 0024 & Par. 0029)**

an interface for receiving messages **(MCP)**, **(Par. 0024 & Par. 0029)** and

a processing system for processing said messages **(PRBT system)**, the processing system being adapted to: **(Par. 0028)**

process a received call set up message comprising an identification of the called party **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

recognize according to received identification of the called party, the demand for providing the multimedia information **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

Although Choe teaches the internet data center 34 connected to the participating telephone service provider 30 that retrieves the ring back messages from the MCP server, when a called party 20 is the service subscriber, and delivers the personalized ring back message to a calling party 10, while the calling party 10 waits for connection to the called party 20, as a ring back tone (Par. 0026)

Choe fails to explicitly teach,

send, to the calling party terminal, a network address or Universal Resource Locator (URL) for retrieving the multimedia information.

However, **Heinonen** teaches,

send, to the calling party terminal, a network address or Universal Resource Locator (URL) for retrieving the multimedia information. **(In a cellular system, the search path to the data file is transmitted in the setup message, and the calling handset uses the same protocol; for example, WAP, to retrieve the data file from the network server of the telephone system, Col 4, Lines 8-18)**

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of **Choe** to include the above recited limitations as taught by **Heinonen** in order to enable a caller to indicate the origin of a call by way of a ringing indication that is selected by the caller **(Heinonen; Col 4, Lines 26-34)**.

Regarding claim 25, **Choe – Heinonen** teaches,

wherein the subscriber data is related to an IN subscription of the called party **(intelligent network)**. **(Choe; Par. 0030)**

Regarding claim 27, **Choe** teaches,

a method, in a core network node of a telecommunications network, for providing multimedia information **(personalized ring back tone, Par. 0028 & 0035)** associated with a called party terminal **(called party)** to a calling party terminal **(calling party)**, the method comprising the steps of: **(Par. 0028)**

retrieving subscriber data of the called party **(Par. 0028 & 202-203 of Fig .2)**, wherein the subscriber data comprises a demand for presenting the multimedia

information **(system determines whether the called party is a service subscriber)**; **(Par. 0028)**

receiving in the core network node a call set up message comprising an identification of the called **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

recognizing according to the subscriber data and the received identification of the called party the demand for providing the multimedia information **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

Although Choe teaches the internet data center 34 connected to the participating telephone service provider 30 that retrieves the ring back messages from the MCP server, when a called party 20 is the service subscriber, and delivers the personalized ring back message to a calling party 10, while the calling party 10 waits for connection to the called party 20, as a ring back tone (Par. 0026)

Choe fails to explicitly teach,

sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information.

However, **Heinonen** teaches,

sending a network address or Universal Resource Locator (URL) to the calling

party terminal for retrieving the multimedia information. **(In a cellular system, the search path to the data file is transmitted in the setup message, and the calling handset uses the same protocol; for example, WAP, to retrieve the data file from the network server of the telephone system, Col 4, Lines 8-18)**

It would have been obvious to one of ordinary skilled in the art at the time of the invention to create the invention of **Choe** to include the above recited limitations as taught by **Heinonen** in order to enable a caller to indicate the origin of a call by way of a ringing indication that is selected by the caller **(Heinonen; Col 4, Lines 26-34)**.

Regarding claim 28, **Choe** teaches,

a method, in a core network node of a telecommunications network, for providing multimedia information **(personalized ring back tone, Par. 0028 & 0035)** associated with a called party terminal **(called party)** to a calling party terminal **(calling party)**, the method comprising the steps of: **(Par. 0028)** retrieving subscriber data of the called party **(Par. 0028 & 202-203 of Fig. 2)**, wherein the subscriber data comprises a demand for presenting the multimedia information **(system determines whether the called party is a service subscriber)**; **(Par. 0028)**

receiving in the core network node a call set up message comprising an identification of the called **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

recognizing according to the subscriber data and the received identification of the

called party the demand for providing the multimedia information **(if the called party is a subscriber, the PRBT system accesses to the Internet Data Center (IDC) located at the message settings based on the subscriber's account information stored in the MCP server)**, **(Par. 0029)**

Although Choe teaches the internet data center 34 connected to the participating telephone service provider 30 that retrieves the ring back messages from the MCP server, when a called party 20 is the service subscriber, and delivers the personalized ring back message to a calling party 10, while the calling party 10 waits for connection to the called party 20, as a ring back tone (Par. 0026)

Choe fails to explicitly teach,

if the called party terminal is not able to send the multimedia information, sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information.

However, **Heinonen** teaches,

if the called party terminal is not able to send the multimedia information, sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information. **(In a cellular system, the search path to the data file is transmitted in the setup message, and the calling handset uses the same protocol; for example, WAP, to retrieve the data file from the network server of the telephone system, Col 4, Lines 8-18)**

It would have been obvious to one of ordinary skilled in the art at the time of the

invention to create the invention of **Choe** to include the above recited limitations as taught by **Heinonen** in order to enable a caller to indicate the origin of a call by way of a ringing indication that is selected by the caller **(Heinonen; Col 4, Lines 26-34)**.

2. **Claims 22 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Choe - Heinonen** in view of **Nguyen** et al. (US 2004/0120477 A1).

Regarding claim 22, **Choe - Heinonen** teaches,

wherein the call set up message is appropriate for setting up a circuit switched call **(Choe; Par. 0028)**

Choe - Heinonen fails to explicitly teach,

the multimedia information is provided using a packet switched connection.

However, **Nguyen** teaches,

the multimedia information **(communication requests)** is provided using a packet switched connection **(STP 108 in Fig. 1)**. (**Par. 0022)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to create the invention of **Choe - Heinonen** to include a packet switched connection as taught by **Nguyen** in order to route communication requests between the various elements **(Nguyen; Par. 0022)**.

Regarding claim 26, **Choe** teaches,

wherein the call set up message is appropriate for setting up a circuit switched

call **(Choe; Par. 0028)**

Choe - Heinonen fails to explicitly teach,

the processing system is adapted to providing multimedia information using a packet switched connection.

However, **Nguyen** teaches,

the processing system is adapted to providing multimedia information **(communication requests)** using a packet switched connection **(STP 108 in Fig. 1)**. **(Par. 0022)**

It would have been obvious to one of ordinary skill in the art at the time of the invention to create the invention of **Choe - Heinonen** to include a packet switched connection as taught by **Nguyen** in order to route communication requests between the various elements **(Nguyen; Par. 0022)**.

(10) Response to Argument

Appellant's arguments (Brief, pages 5-10) have been fully considered but are not persuasive.

In the Brief, Appellants argues as follows:

(A.1) The Applicant argues in substance that the Choe reference does not teach "wherein the subscriber data comprises a demand for presenting multimedia information".

The examiner respectfully disagrees. The examiner agrees that the word "demand" is not present in the Choe reference but contends that the word "demand" does not need to be in the Choe reference. The Choe reference as noticed by the applicant teaches that the system determines if the called party is a subscriber and if they are a subscriber, retrieves the message settings which include providing a ringback tone to the calling party. The message settings are equivalent to a "demand" because the message setting is what indicates to the IDC to deliver the personalized ring back messages to the calling party. It does not matter if the ring back message is personalized nor does it matter if the system identifies the calling party as nothing of such is claimed. It further does not matter whether the demand is added or not as argued by the applicant. The only thing that does matter is what is claimed and as claimed the claims only recite "retrieving subscriber data of the called party, wherein the subscriber data comprises a demand for presenting the multimedia information." As is clearly taught in the Chloe reference the system determines whether the called party is a subscriber 204...If the called party is a subscriber, the PRBT system accesses the Internet Data Center (IDC) located at a participating telephone service provider to retrieve the message settings based on the subscribers account information stored in the MCP server 205 (Choe; Par. 0029). The message setting will “comprise” the indication to deliver a ringback message to the calling party. Further as is argued by the applicant in the response dated 12/15/2010, the applicant states “In the applicants invention, the "demand” is added to the subscriber data so as to cause the network node, when accessing the subscriber data, to send the multimedia information. This is

the same concept that Choe is teaching yet in this response the attorney argues on page 7 “with respect to the Applicant’s claim, there is no indication in the claim elements that a demand is added to the subscriber data”. It seems to be clear that the Applicant is not clear as to what the present invention claims are referring to as their interpretation keeps changing. Par. 0048 of applicant's specification teaches that the core node accesses the subscriber data wherein the subscriber data comprises the indication for a demand to present services. In the Choe reference if the user is a subscriber, the system accesses the message settings for the subscriber wherein the message settings indicate what multimedia information to present to the calling party. Therefore, as can be seen the settings of Choe is equivalent to the "demand" of the present application. By this rationale, the examiner requests the rejection be maintained.

(A.2) The Final Office Action (dated October 15, 2010) states that Choe fails to teach "sending a network address .... "; the Applicant agrees. The Heinonen reference is cited for disclosing "sending a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information." Note that the cited portion of Heinonen (column 4, lines 8-18) begins with "[I]n sending ringing information to a recipient handset the calling handset utilizes.. :" (line 8--9). The recipient handset is a called handset, with the calling handset doing the sending. This is the opposite of the rejected limitation in claim 19, which reads "sending a network address or Universal Resource Locator (URL) address to the calling party ...". Therefore, Heinonen does not disclose "sending .... to the calling party terminal..:" Heinonen discloses sending to the

recipient (called) terminal. This being the case, the Applicant respectfully submits that neither Choe nor Heinonen disclose the above discussed limitations.

The examiner respectfully disagrees. Although the Heinonen reference does teach sending from the called to the calling party, the examiner contends that the Heinonen reference was not combined with Choe to teach the direction of the system. It is painstakingly clear that the Choe reference teaches the multimedia information being transmitted in the direction from the called party to the calling party as claimed in the present invention. Choe fails to explicitly teach that this multimedia information is sent using a network address or Universal Resource Locator (URL) to the calling party terminal for retrieving the multimedia information, however, Heinonen teaches that it is well known in the art to send a URL to a device to allow it to access or retrieve a data file. The applicant is reminded that it is the features of the Heinonen reference which is being combined with the Choe reference and not the other way around and therefore bodily incorporation of the Heinonen reference into the Choe reference is inappropriate. By this rationale, the examiner requests the rejection be maintained.

(A.3) The Nguyen reference is cited as teaching multimedia information being provided using a packet switched connection. The Examiner cited paragraph [0022] in the rejection of this element. The cited portion of Nguyen discloses routing "...communication requests between the various elements...". The Applicant respectfully submits routing messages through a signal transfer point is not the same as sending multimedia information using a packet switched connection. Multimedia information is

not considered signaling information; more properly the multimedia information, which can include audio and video data, typically does not travel over signal bearers. Simply put, multimedia information (data) is sent on a different bearer.

The examiner respectfully disagrees. The Nguyen reference teaches "A customer uses a phone 104 to communicate with a voice switch, illustrated by service switching point (SSP) 106 (Par. 0021)...SSP 106 communicates with a local signal transfer point (STP) 108. An STP, such as STP 108 in Fig. 1, is a packet switch (emphasis added) that routes communication requests between various elements...(Par. 0022)". Clearly the customer uses a phone to communicate with a voice switch and that voice switch communicates with the STP which is a packet switch. The claims merely recites "the multimedia information is provided using a packet switched connection," and therefore as is seen the customer uses a phone to communicate with a voice switch which communicates with a packet switch. The voice of the customer is being "provided" (emphasis added) using a packet switch. The claims or the specification does not provide any way that this is "provided" (emphasis added) using a packet switched connection. The broadest reasonable interpretation is taken and therefore the SSP and STP does "provide" (emphasis added) the voice using a packet switch as described in Par. 0021-0021 of Nguyen and therefore teaches the limitation of the claims "the multimedia information is provided using a packet switched connection". By this rationale, the examiner requests the rejection be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/N. B./

Examiner, Art Unit 2478

Conferees:

/BENJAMIN R BRUCKART/

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